



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP

Docket No. 4855-99
30 May 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]
[REDACTED]

Ref: (a) 10 U.S.C.1552

Encl: (1) DD Form 149
(2) Case Summary
(3) Subject's Naval Record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, applied to this Board requesting, in effect, that his reenlistment code be changed.

2. The Board, consisting of Messrs. Morgan, Silberman and Frankfurt reviewed Petitioner's allegations of error and injustice on 24 May 2000, and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application to the Board was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Navy on 12 July 1994 for four years at age 19. His record reflects that on 19 July 1994 he was referred to the dermatology clinic for evaluation of neurofibromatosis he had since birth. Administrative separation

was recommended for a disqualifying medical condition that existed prior to service.

d. Thereafter, Petitioner was notified that he was being considered for administrative separation by reason of defective enlistment and induction due to erroneous enlistment as evidenced by neurofibromatosis. He was advised of his procedural rights and did not object to the discharge. The discharge authority directed an entry level separation. On 26 July 1994, Petitioner received an uncharacterized entry level separation by reason of "failed medical/physical procurement standards" and was assigned an RE-4 reenlistment code.

f. Regulations require the assignment of an RE-4 reenlistment code to individuals discharged by reason of failed medical/physical procurement standards. However, an RE-3E reenlistment code may be assigned to an individual who is separated due to an erroneous enlistment. It appears that the medical condition which subsequently disqualified Petitioner would have disqualified him for enlistment had the recruiting authorities been aware of the condition at the time of his enlistment.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board notes Petitioner had no disciplinary or performance problems during his short period of service. The Board believes that he could have also been separated by reason of erroneous enlistment with an RE-3E reenlistment code. Although this code is not authorized for the reason of "failed medical/physical procurement standards", the Board believes that assignment of this code would be more appropriate in Petitioner's case, given his satisfactory performance and conduct, and given the derogatory nature of the RE-4 reenlistment code. Accordingly, the Board concludes that it would be appropriate and just to change the reenlistment code to RE-3E.

RECOMMENDATION:

a. That Petitioner's naval record be corrected by changing the RE-4 reenlistment code, assigned on 26 July 1994, to RE-3E. This should include the issuance of a new DD Form 214.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's naval record be returned to the Board together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross references being made a part of Petitioner's naval record.

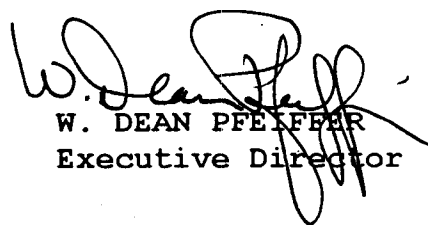
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6 (e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6 (e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director